

STATE OF MINNESOTA PUBLIC UTILITIES COMMISSION

January 24, 2003

Chairman Michael Powell
 Commissioner Kevin Martin
 Commissioner Kathleen Abernathy
 Commissioner Michael Copps
 Commissioner Jonathan Adelstein
 445 12th Street SW, Portals II Building
 Washington, D.C. 20544

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RE: Notice of Written Ex Parte Comment: *In the Matter of Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers*, CC Docket Nos. 01-338, 96-98 and 98-147, Notice of Proposed Rulemaking, FCC 01-361 (rel. Dec. 20, 2001).

Dear Commissioners:

As the Commission works to finish the critical Triennial Review, we are writing to remind the Commission of the enormous consumer benefits of UNE-P and line sharing; the critical necessity of preserving these elements on the FCC's national UNE list, and the importance to Minnesota of maintaining maximal state discretion over adding UNEs to a national list.

The Minnesota Public Utilities Commission (MPUC) remains focused on the difficult tasks of promoting competition and investment in the local telecommunications industry, as envisioned by the 1996 Telecommunications Act, and assuring that consumers receive quality services at fair and reasonable prices. We emphasize that we cannot accomplish these goals without the availability of effective competitive entry strategies such as UNE-P and line sharing.

UNE-P remains the fastest growing form of local competition in the nation serving an estimated ten million residential and small business lines (over 85,000 lines in Minnesota). UNE-P fosters geographically broad competition and, because it is provisioned electronically, it enables carriers to compete for smaller mass market customers.

The MPUC has been a national leader in establishing line sharing as method of enhancing competition. In October of 1999, pursuant to Minnesota law, the MPUC concluded that:

[T]he denial of line sharing at an equitable price is discriminatory and presents a barrier to competition. Although data CLECs have the ability to buy unbundled loops, without line sharing they may not have access to any loops if all loops are occupied by other services. Moreover, by forcing CLECs to purchase individual unbundled loops, while ILECs impute \$0 to the loop for their own DSL services, the ILEC is

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discriminating against CLECs. CLECs should have access to the data spectrum at the same rate ILECs charge themselves, be that \$0 or otherwise.

In November of 1999 when the FCC adopted its *Line Sharing Order* there were less than 500,000 DSL subscribers in the United States. Three years later, there are more than 5.5 million DSL subscribers in the United States. As demonstrated by the FCC's semi-annual report on broadband competition, line sharing plays a critical role in guaranteeing consumers access to the widest variety of innovative broadband choices. The FCC's own data proves that designation of the high frequency portion of the loop on the FCC's national UNE list has enabled competitors to provide consumers with lower-priced, more innovative DSL services. This growth also provides powerful proof that, if the FCC continues to support competition and line sharing, such support will foster the potential for explosive growth in broadband deployment.

We believe that competitive pressure is critical to further spur broadband adoption, both in Minnesota and across the nation. Removal of UNE-P and/or line sharing from the national list of UNEs would deal a fatal blow to the remaining competitive providers, reduce the availability of broadband competition to consumers, reduce the degree of innovation in the broadband market, and undoubtedly increase the price that consumers must pay for broadband access.

We urge the Commission to (i) make it clear that no preemption is intended or should be implied with respect to state additions to the national UNE list; (ii) that such a list should, at a minimum, include all existing UNEs; (iii) that carriers wishing to remove a UNE from the list must make a factual case before a state commission; (iv) that any UNE subject to challenge remain on the list until the state commission makes a finding that it should be removed; (v) that the Commission should caucus extensively with state commissions before promulgating "necessary and impair" standards; and (vi) that the Commission should confirm its previous ruling that states retain the right to add UNEs to the national list.


Thank you for your attention to our concerns. Please do not hesitate to contact us for additional information.

Sincerely,


Chairman LeRoy Koppendraye


Commissioner Gregory Scott

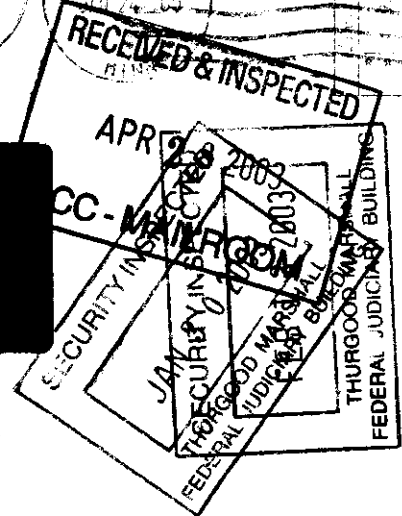
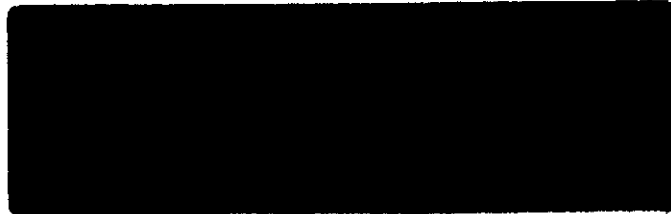
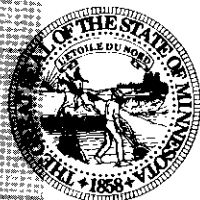

Commissioner Marshall Johnson


Commissioner Phyllis Reha


Commissioner Ellen Gavin

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